

**Serial No. 10/733,976**  
**Group Art Unit: 3683**

REMARKS

First, reconsideration is respectfully requested of the Examiner's withdrawal of claims 15 and 16 as being directed to a non-elected invention, for the following reasons: In the first Office action dated 26 August 2004 the Examiner rejected claim 6 over Machal, recognizing:

"Machal does not disclose the rope setup."

The Examiner stating further (underlining added for emphasis):

"Claim 6 is an apparatus claim. Therefore, the method steps are not limiting to the claim. If the applicant wishes to have coverage for the steps described by claim 6, then the examiner suggests the claim be written as a method claim."

On the strength of the Examiner's suggestion put forth in the Office action, new claims 15 and 16 were added in the amendment filed 6 December 2004. By the Examiner's suggestion, it was understood that the Examiner considered the method claims to be appropriate since they were directed to the very essence of applicant's invention; namely, the climbing of trees and other vertically extending objects having a laterally extending obstruction, such as a tree branch, as specifically detailed in the specification beginning at line 13 on page 10 and specifically illustrated in Figs. 7-9 of the drawings.

In this latter regard, it is important that the Examiner recognize that none of the references of record even remotely suggests a method or apparatus that enables the climbing

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of trees, by providing a lanyard L secured to a safety harness 48 intermediate the opposite terminal ends of the lanyard such as to provide opposite lanyard end segments L' and L" extending to opposite sides of the body member 12, with each end segment L' and L" having a length sufficient to encircle the object (tree T) to be climbed, with the corresponding one or the other opposite terminal end of the lanyard being alternatively, and alternatingly secured at a time to the harness.

In the reference Machal, the invention is clearly described at col 1, lines 53-55

(underlining added for emphasis):

"The present invention provides a safety grab protection device operable bi-directionally for connecting a safety belt lanyard to a vertical safety rope or the like."

This description clearly distinguishes Machal from applicant's claimed invention. Specifically, Machal does not even remotely suggest the requirement of applicant's claimed climbing lanyard L secured to a climber's safety harness 48 intermediate its ends to provide opposite lanyard end segments L' and L" both of which are of sufficient length, with its respective free terminal end secured to the climber's safety harness, to encircle a tree T or other object having a laterally projecting obstruction to continued climbing. Indeed, Machal's vertically extending climber's safety rope is fixedly secured at one of its terminal ends to a vertically-elevated fixed support above the climber, and hangs freely downwardly therefrom to a free, opposite terminal end terminating in the area of the base of the vertical climb where

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the climber's vertical ascent began, (or his descent will end if the climber is climbing vertically downward). The climber's only disclosed harness connection to the safety line is through the device of Machal's invention, the device arranged to be moved along the length of the safety line from one terminal end to the other terminal end as the climber moves vertically upwardly or downwardly therealong while climbing. Clearly, Machal does not in any way suggest, much less teach any structure or capability of operating as a structure-encircling climbing lanyard system of any kind or description whatsoever, much less that specifically recited in all of applicant's pending apparatus and method claims.

Further, the secondary reference Allen et al also does not disclose or suggest a structure-encircling climbing lanyard (strap 10) connected intermediate its opposite longitudinal terminal ends to a safety harness (13) to provide opposite end segments each of sufficient length to encircle a pole (12). On the contrary, it is obvious that the pole-encircling climbing lanyard strap (10) of Allen et al has a single length connected concurrently at both its opposite terminal ends to the safety harness (13) of the climber and has a total length therebetween sufficient only to encircle pole (12), as is conventional climbing lanyard construction.

As recognized by the Examiner:

"Allen et al teaches (sic) a safety harness, a lanyard with connector means to encircle a pole. Such a setup is well known."

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But the well known setup of Allen et al clearly is not the setup required by applicant and recited in applicant's claims 7-16. Note claim 7, lines 6-10.

Furthermore, claim 7 recites at lines 22-25, the additional requirement that the first and second detachable coupler members (54 and 56) on the free ends of the spaced lanyard end segments (L' and L'') are configured for releasable connection, one at a time, to the first connector member (50) on the safety harness (48). It is by this arrangement that each lanyard end segment (L', L'') is used alternately to be extended over an obstructing branch (B) of a tree being climbed and then coupled to the one connector member (50) to secure the climber safely for further climbing. The unused lanyard line segment is then freed to hang downward loosely, in readiness for use for the next branch (B) to be circumvented. This mode of operation is described in detail from line 13 on page 10 to line 19 on page 13 and shown in step-by-step detail in Figs. 7-9 of the drawings.

It is important to note that the structural configuration recited in paragraph a, b, c, d, e and f of claim 7 is necessary in order to achieve the sequence of steps in climbing a tree having obstructing branches to circumvent as the climb proceeds. Neither Machal nor Allen et al, nor any combination of the other references of record, even contemplate the climbing of an object having laterally extending obstructions, much less suggesting the structural combination specifically recited in claim 7 to achieve it.

In this latter regard, it is believed to be apparent that the method claims 15 and 16

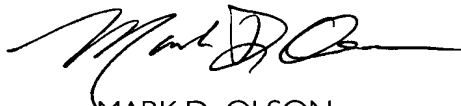
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recite the various steps in the process of climbing a vertical structure having a laterally extending obstruction to continued climbing, which steps require the specific structural components recited in the apparatus claims. Therefore, the apparatus claims and method claims are properly combined in this application. Stated in another way, the apparatus claims can only serve to perform the method claims and the method claims can only be performed by the structural combination of the apparatus claims. The Examiner's withdrawal of method claims 15 and 16 accordingly is considered to be improper.

Favorable reconsideration of the rejection of claims 7-14 and the withdrawal of claims 15 and 16, and passage of this case to issue is requested.


Respectfully submitted,

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